The double patenting rejection is based on a U.S. patent which, on its face, is not commonly owned with this application. Consequently, the terminal disclaimer solution mentioned by the Examiner is not applicable. Once the full scope of allowable subject matter has been determined for this application, all issues raised by the cited USP 5,468,736, will be handled in the appropriate fashion.

As the Examiner notes, claims of this application are the same as those of 08/462,705. As the Examiner is also aware, the claims of both this and the mentioned application are also the same as those now pending in 08/115,008. This situation exists in order to provide maximum flexibility to clarify the situation involved among all three applications and USP 5,468,736. With respect to this situation, see also the following patents: USP 5,516,769 (of record), USP 5,622,943, corresponding to WO 93/21927 (of record), and USP 5,439,913 (of record). Permitting these claims to remain copending in each application for a while longer will, it is believed, enhance the expeditious resolution of the relevant patent landscape for all parties involved, including the PTO. This request is made since it appears from page 4 of the office action that the requirement under the rule is an optional one. Nevertheless, should the Examiner continue to feel that the mentioned clear line of demarcation should be maintained despite the foregoing, the undersigned will comply immediately.

Respectfully submitted,

Anthony J. Zelano
Registration No. 27,969
Attorney for Applicants
MILLEN, WHITE, ZELANO & BRANIGAN, P. C.
2200 Clarendon Boulevard, Suite 1400
Arlington, Virginia 22201
(703)812-5311

Filed: December 9, 1998
AJZ/tal:K:\PAT\Sch\1309c3\response.wpd